IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24536 of 2004

Between:

E. Ravinder, S/o. Kondiah, Hindu,
APSRTC, Wanaparthy Bus Depot, Mahabubnagar District.

..... PETITIONER

AND

1. The Depot Manager, APSRTC, Wanaparthy Bus Depot,
Mahabubnagar District.
2 The Deputy Chief Traffic Manager (Redesignated as
Divisional Manager, Nagarkunrool),
Mahabubnagar, Mahabubnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondent No.1 in imposing the punishment of deferment of annual increment of the petitioner for a period of two years which shall have effect on petitioners future increments, as modified by the R2 herein to that of one year which shall have effect in petitioner's future increments, as illegal, arbitrary, unjust, unreasonable and violative of principles of natural justice by setting aside the Final Order No. 01/2(1)/95-WNP dated 27-5-96 of R1 and consequential order dated 25-7-96 of R2 herein and consequently direct the respondents to add the deferred increments.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the stage of admission, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24536 of 2004

ORDER:

The petitioner is working as a Driver in the respondent-Corporation. He was issued a charge memo on 13-04-1995 for having caused an accident to the vehicle bearing Regn.No.AP9Z 5533 driven by him and after receiving the explanation of the petitioner, the final orders were passed on 27-05-1996 by the 1st respondent, imposing the penalty of withholding of one incremental stage for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment for a period of two years with cumulative effect is a major penalty, the 1st respondent passed the impugned order without conducting any enquiry as required under the rules. Challenge to the proceedings dated 27-05-1996 the petitioner carried the matter in appeal before the 2nd respondent. The 2nd respondent allowed the appeal through his proceedings dated 25-07-1996 by reducing the punishment from two increments to one increment deferment, which shall have an effect on his future increments. Aggrieved by the same, the present writ petition has been filed.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 8 years. There are latches on his part in asserting his right regarding this issue. Having regard to the facts and circumstances of the case, though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh Gill** (1 supra), I deem it consider that the punishment of deferment of one increment with cumulative effect, as modified by the 2nd respondent in appeal, can be reduced with slight modification. Therefore, the order of punishment is modified as deferment of one increment without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. In the circumstances, there shall be no order as to costs.

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Kvr December 29, 2004

To

1. The Depot Manager, APSRTC, Wanaparthy Bus Depot,
Mahabubnagar District.
2 The Deputy Chief Traffic Manager (Redesignated as Divisional Manager,
Nagarkunrool), Mahabubnagar, Mahabubnagar District.

3. 2 C.D copies.